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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	OAH Case No.: L-2015050683
)	
THE COMMISSIONER OF BUSINESS)	
OVERSIGHT,)	CDDTL License No. 100-3039
)	
Complainant,)	
v.)	FIRST AMENDED CITATION AND DESIST
)	AND REFRAIN ORDER PURSUANT TO
)	FINANCIAL CODE SECTION 23058
CASH CENTRAL OF CALIFORNIA, LLC, dba)	
CASH CENTRAL)	
)	
Respondent.)	

Complainant, the Commissioner of Business Oversight ("Commissioner"), is informed and believes, and based on such information and belief, finds as follows:

I

Factual Background

1. The Commissioner has jurisdiction over deferred deposit transactions as set forth in the California Deferred Deposit Transaction Law ("CDDTL") (Fin. Code § 23000 et. seq.).

2. "Deferred deposit transaction" means a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge. "Personal check" is referenced in Financial Code section 23001, subdivision (a).

3. Respondent Cash Central of California, LLC (“Cash Central”) is a limited liability company formed under the laws of California on June 21, 2005. Its principal place of business is 84 East 2400 North, North Logan, UT 84341. It does business in California under the name Cash Central.

4. On January 3, 2006, the Commissioner issued a deferred deposit transaction originator license (File No. 100-3039) to Cash Central pursuant to the CDDTL.

5. Cash Central originates deferred deposit transactions over the internet from its website, www.cashcentral.com.

6. On or around February 7, 2014, the Commissioner commenced a regulatory examination of Cash Central.

7. As a result of the examination, the Commissioner discovered that Cash Central has contracts with third party accounts receivable firms to collect on past due debt. During the 2014 examination, Cash Central produced a collection report dated June 12, 2014 showing that excess charges were being charged to customers with past due amounts. The report shows that from on or around October 8, 2012 to on or around May 2, 2014, the third party accounts receivable firms charged, and Cash Central directly or indirectly overcharged (but have not collected) at least \$181.02 from two customers. The report further shows that from on or around October 8, 2012 to on or around May 2, 2014, the third party accounts receivable firms charged and collected, and Cash Central directly or indirectly charged and collected a total of \$3,745.62 in excess charges from 38 customers.

8. By directly or indirectly collecting and attempting to collect excess charges, Cash Central violated Financial Code sections 23036, subdivision (f) and 23037, subdivision (f).

II

Law

Financial Code section 23036 states:

(a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check.

(b) A licensee may allow an extension of time, or a payment plan, for

repayment of an existing deferred deposit transaction but may not charge any additional fee or charge of any kind in conjunction with the extension or payment plan. A licensee that complies with the provisions of this subdivision shall not be deemed to be in violation of subdivision (g) of Section 23037.

(c) A licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect.

(d) A licensee who enters into a deferred deposit transaction agreement, or any assignee of that licensee, shall not be entitled to recover damages for that transaction in any action brought pursuant to, or governed by, Section 1719 of the Civil Code.

(e) A fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution in a deferred deposit transaction. A single fee charged pursuant to this subdivision is the exclusive charge for a dishonored check. No fee may be added for late payment.

(f) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction.

(g) A licensee shall be subject to the provisions of Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code.

Financial Code section 23037 states in pertinent part:

In no case shall a licensee do any of the following:

...

(f) Engage in any unfair, unlawful, or deceptive conduct, or make any statement that is likely to mislead in connection with the business of deferred deposit transactions.

III

Citation

Financial Code section 23058 provides:

(a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500). All penalties collected under this section shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 30 days from the receipt of the citation of the person cited fails to notify the department that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all states the commissioner has all the powers granted therein.

(e) After the exhaustion of the review procedures provided for in this section, the department may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the department. The application, which shall include a certified copy of the final order of the department, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

For violations of the CDDTL, the Commissioner hereby issues the following citation:

Cash Central has violated Financial Code sections 23036, subdivision (f) and 23037, subdivision (f) by collecting, directly or indirectly, and attempting to collect, directly or indirectly, excess charges. During the 2014 examination, the Commissioner found that Cash Central directly or indirectly collected a total of \$3,745.62 in excess charges and directly or indirectly charged \$181.02 in excess charges.

Under Financial Code section 23058, Cash Central is ordered to pay the Department an administrative penalty of two thousand, five hundred dollars (\$2,500.00) for the citation within thirty (30) days from the date of this order.

IV

Desist and Refrain Order

When the Commissioner has cause to believe a person is violating any provision of the CDDTL, the Commissioner is further authorized, under Financial Code section 23058, to issue, along with each citation, an order to desist and refrain.

The foregoing facts establish violations of the CDDTL by Cash Central including Financial Code sections 23036, subdivision (f) and 23037, subdivision (f) as described more fully above.

Pursuant to Financial Code section 23058, Cash Central of California, LLC, dba Cash Central, is hereby ordered to desist and refrain from violating Financial Code sections 23036, subdivision (f) and 23037, subdivision (f).

This Order is necessary for the protection of consumers and is consistent with the purposes, policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further order of the Commissioner.

DATED: November 16, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner